



General Assembly

**Substitute Bill No. 989**

January Session, 2005

\* \_\_\_\_\_SB00989PD\_\_\_\_\_032905\_\_\_\_\_\*

***AN ACT CONCERNING THE PRESERVATION OF FEDERALLY-  
ASSISTED HOUSING AS LOW AND MODERATE INCOME HOUSING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1      Section 1. (NEW) (*Effective July 1, 2005, and applicable to any*  
2      *termination of subsidy for the development occurring on or after July 1, 2006*)  
3      As used in sections 1 to 7, inclusive, of this act:

4      (1) "Development" means a rental housing development that  
5      receives government assistance under any covered program, including  
6      any property that is owned or whose mortgage is held by the United  
7      States Department of Housing and Urban Development and was  
8      formerly insured under any covered program, excluding the  
9      foreclosure of a development by an applicable agency.

10      (2) "Covered program" means any of the following:

11      (A) New construction, substantial rehabilitation, moderate  
12      rehabilitation, property disposition and loan management set-aside  
13      programs or any other program providing project-based assistance  
14      under Section 8 of the United States Housing Act of 1937, as from time  
15      to time amended;

16      (B) The Below Market Interest Rate Program under Section 221(d)(3)  
17      of the National Housing Act, 12 USC 1715l(d)(3), (5);

- 18 (C) Section 236 of the National Housing Act, 12 USC 1715z-1;
- 19 (D) Section 202 of the Housing Act of 1959, 12 USC 1701q;
- 20 (E) Programs for rent supplement assistance under Section 101 of  
21 the Housing and Urban Development Act of 1965, 12 USC 1701s;
- 22 (F) Programs under Section 515 of the Housing Act of 1949, 42 USC  
23 1485;
- 24 (G) Programs under Section 521 of the Housing Act of 1949, 42 USC  
25 1490a; or
- 26 (H) The Low Income Housing Tax Credit program, 26 USC 42.
- 27 (3) "Applicable agency" means any governmental agency that  
28 administers a covered program.
- 29 (4) "Assisted unit" means a dwelling unit in a development,  
30 including a cooperative, that is receiving assistance pursuant to a  
31 covered program.
- 32 (5) "Nonprofit corporation" means a nonprofit corporation, as  
33 defined in subsection (w) of section 8-39 of the general statutes, or  
34 subsection (a) of section 8-395 of the general statutes.
- 35 (6) "Owner" means an individual, partnership, corporation,  
36 association, joint venture or business entity that owns or controls a  
37 development or any successor in interest of such individual,  
38 partnership, corporation, association, joint venture or business entity.
- 39 (7) "Tenant" means a tenant, subtenant, lessee, sublessee or other  
40 person entitled to possession, occupancy or benefits of a rental unit  
41 within the development.
- 42 (8) "Tenant association" means an association, organization or other  
43 entity that represents tenants in a development, including, but not  
44 limited to, an association that is incorporated as a nonprofit  
45 corporation or a cooperative.

46       (9) "Cooperative" shall have the same meaning as in subdivision (10)  
47 of section 47-202 of the general statutes, except that for the purposes of  
48 sections 2 to 7, inclusive, of this act, a cooperative shall be deemed to  
49 be a rental housing development and the terms "rent" and "rental" shall  
50 include occupancy payments made by a member of a cooperative and  
51 the term "tenants" shall include residents of a cooperative.

52       (10) "Eligible purchaser" means an entity entitled to purchase the  
53 development pursuant to subdivision (2) of subsection (a) of section 3  
54 of this act.

55       (11) "Relocation assistance" means the assistance payment to tenants  
56 who relocate, as provided in section 4 of this act.

57       (12) "Termination of subsidy for the development" or "termination  
58 of subsidy" means: (A) Any sale, transfer of title, lease or prepayment  
59 of a loan that was made pursuant to a covered program with respect to  
60 a development that would result in the cessation or reduction of the  
61 financial assistance or regulatory requirements designed to make the  
62 assisted unit affordable to low and moderate income households; or  
63 (B) an owner's decision not to extend or renew its contractual  
64 participation in a covered program, either at or prior to the scheduled  
65 date of the expiration of the contract; or (C) the expiration of  
66 restrictions for a development that may result in an increase in tenant  
67 rent or a change in the form of the subsidy from project-based to  
68 tenant-based.

69       (13) "Low and moderate income household" means any household  
70 with an adjusted gross income that satisfies the occupancy  
71 requirements for income-restricted units in the development, existing  
72 before termination of subsidy for the development.

73       (14) "Affordability preservation transaction" means a transaction for  
74 the purpose of preserving a development as housing for low and  
75 moderate income households, which complies with all requirements of  
76 section 6 of this act.

77       Sec. 2. (NEW) (*Effective July 1, 2005, and applicable to any termination of*  
78 *subsidy for the development occurring on or after July 1, 2006*) (a) On and  
79 after July 1, 2005, any owner of a development shall, not later than one  
80 year before the termination of subsidy for the development, provide  
81 written notice of the owner's intent to terminate the subsidy, sent by  
82 first class mail or hand-delivered, to (1) each tenant residing in the  
83 development, (2) each tenant association representing tenants in the  
84 development, (3) the executive director of any housing authority of the  
85 municipality in which the development is located, (4) the chief  
86 executive officer of the municipality in which the development is  
87 located, (5) the executive director of the Connecticut Housing Finance  
88 Authority, (6) the Commissioner of Economic and Community  
89 Development, and (7) the executive director of the Connecticut  
90 Housing Coalition. The notice shall be posted in a conspicuous  
91 common area of the development accessible to the tenants. A copy of  
92 the notice shall be filed in the land records of the municipality in which  
93 the development is located.

94       (b) The notice shall (1) inform the persons and entities described in  
95 subsection (a) of this section that the owner intends to sell or otherwise  
96 dispose of the development or terminate the subsidy or rental  
97 restrictions for the development and that they have an option to  
98 purchase the property pursuant to sections 1 to 7, inclusive, of this act,  
99 (2) inform the tenants of their right to relocation assistance if the  
100 subsidy for the development is terminated, (3) identify the number of  
101 units that will no longer be subject to the restrictions imposed by the  
102 federal program, and (4) include information on the estimated rents  
103 that will be charged compared to the rent charged under the federal  
104 program and the action the owner will take to assist displaced tenants  
105 in obtaining other housing.

106       Sec. 3. (NEW) (*Effective July 1, 2005, and applicable to any termination of*  
107 *subsidy for the development occurring on or after July 1, 2006*) (a) At least  
108 one year before the intended date of termination of subsidy for the  
109 development, the owner shall provide to each person and entity  
110 specified in subsection (a) of section 2 of this act a written copy of a

111 bona fide offer to sell, to an eligible purchaser, sent by first class mail  
112 or hand delivered and post a copy of the offer to sell in a conspicuous  
113 place in the common area of the development accessible to tenants.  
114 Such offer shall be assignable by an eligible purchaser to (1) a  
115 nonprofit corporation, (2) a joint venture between an eligible purchaser  
116 and a nonprofit corporation, or (3) a limited partnership or limited  
117 liability company which is materially controlled by such eligible  
118 purchaser, nonprofit corporation or joint venture.

119 (b) An offer to sell made pursuant to this section shall include, but  
120 not be limited to:

121 (1) The essential terms of the sale, which shall include, but not be  
122 limited to, (A) the sale price, (B) the terms of seller financing, if any,  
123 including the amount, interest rate and amortization rate, (C) the terms  
124 of the assumable financing, including the amount, interest rate and  
125 amortization rate, and (D) any proposed improvements to the property  
126 to be made by the owner in connection with the sale or other economic  
127 concessions by the owner in connection with the sale.

128 (2) A statement that each of the following entities has the right to  
129 purchase the development for the purpose of preserving the  
130 development as low and moderate income housing according to the  
131 following order of priorities: (A) A tenant association which represents  
132 not less than twenty-five per cent of the tenants in the development,  
133 (B) a nonprofit corporation that has been designated by not less than  
134 twenty-five per cent of the tenants in the development for the purpose  
135 of assisting in the purchase or acquisition of the development, (C) any  
136 other nonprofit corporation, (D) the housing authority of the  
137 municipality in which the development is located, or a nonprofit  
138 corporation designated by the housing authority, (E) the municipality  
139 in which the development is located, or a nonprofit corporation  
140 designated by the municipality, (F) the Department of Economic and  
141 Community Development, or a nonprofit corporation designated by  
142 the department, or (G) the Connecticut Housing Finance Authority, or  
143 a nonprofit corporation designated by the authority.

144 (c) The offer to sell shall expire unless at least one interested entity  
145 described in subdivision (2) of subsection (b) of this section notifies the  
146 owner, in writing, not later than two hundred forty days before the  
147 intended date of termination of subsidy for the development of its  
148 intent to purchase the development. If more than one entity within the  
149 same priority category provides such notice, priority shall be  
150 determined by the date and time that the notice is received by the  
151 owner.

152 (d) After receiving a notice from one or more interested entities of  
153 the entity's intent to purchase, the owner shall comply with any  
154 reasonable request to have access to the premises for the purposes of  
155 inspection or to make documents available to the interested entity  
156 during normal business hours at the owner's principal place of  
157 business not later than thirty days after the date the owner receives  
158 such a request. Access to documents shall include, but not be limited  
159 to: (1) Copies of financial and physical inspection reports filed with  
160 federal, state or local agencies, including, but not limited to, audit  
161 reports for the three most recent years, the most current capital needs  
162 assessment and a current operating and capital budget; (2) the most  
163 recent rent rolls, redacted to protect tenant confidentiality; (3) the  
164 current vacancy rate and a statement of the vacancy rate of the  
165 development for each of the two preceding years; and (4) all applicable  
166 notes, mortgages and regulatory documents and all rental assistance  
167 contracts with a governmental agency. Except as to documents which  
168 are public records, the owner may make the release of documents  
169 pursuant to this subsection subject to a confidentiality agreement  
170 preventing their disclosure to anyone except the entity requesting  
171 them and its agents.

172 (e) The interested entity shall, not later than one hundred twenty  
173 days before the intended date of the termination of subsidy for the  
174 development, provide the owner with a bona fide offer to purchase  
175 evidenced by a purchase contract reflecting the sale price and any  
176 terms agreed to by the parties, or the sale price and terms determined  
177 pursuant to the contract, and a deposit equal to five per cent of the

178 amount of the bona fide offer to purchase.

179 (f) If the parties are unable to agree on a purchase price, the  
180 interested entity shall have the right to purchase the property:

181 (1) If the interested entity matches the essential provisions of any  
182 existing bona fide offer to purchase the development made by another  
183 potential purchaser which the owner is prepared to accept; or

184 (2) If there is no bona fide offer, at a purchase price at its current  
185 appraised value to be established by an appraiser chosen by the  
186 interested entity and the owner. As used in this subdivision,  
187 "appraised value" means the value of the affected development for its  
188 highest and best use as housing but subject to any existing  
189 affordability restrictions that cannot be extinguished by the unilateral  
190 action of the owner. If the interested entity and the owner cannot agree  
191 on one appraiser, either party may notify the Connecticut Housing  
192 Finance Authority and the other party, in writing, of such  
193 disagreement. In such case, the interested entity shall choose one  
194 appraiser and the owner shall choose one appraiser and the two  
195 appraisers shall jointly choose a third appraiser. The three appraisers  
196 shall establish a value for the development. If the owner or the  
197 interested entity does not select an appraiser by the fifteenth day after  
198 the date of the mailing of the notice of the disagreement, the  
199 Connecticut Housing Finance Authority shall choose an appraiser for  
200 the owner or the interested entity. The costs of all appraisers shall be  
201 paid equally by the interested entity and the owner. If it is necessary to  
202 obtain appraisals to establish the purchase price, the time to close the  
203 sale under subsection (g) of this section shall be extended by the time  
204 necessary to obtain such appraisals and determine a purchase price.

205 (g) The interested entity shall agree to close the sale not later than  
206 the date of the intended termination of subsidy for the development,  
207 unless extended by mutual agreement between the interested entity  
208 and the owner.

209 (h) Upon the settlement of any purchase of the development by an

entity described in subsection (b) of this section under an option to purchase and offer of sale, the purchaser shall execute and record a regulatory agreement or covenant on the land records that shall restrict the use of the development to residential property for low and moderate income households for at least twenty years.

Sec. 4. (NEW) (*Effective July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006*) The owner shall pay to each tenant under this section who vacates a dwelling unit after the issuance of the notice required by subsection (a) of section 2 of this act but not more than twelve months after the termination of subsidy for the development the sum of two thousand dollars as relocation assistance. Such payment shall be made not later than the date on which the tenant vacates the unit. Such payments shall not be deemed to be income to the tenants. This section shall apply to all tenants in occupancy on the date the notice of intended termination of subsidy of the development is given pursuant to subsection (a) of section 2 of this act or who enter into occupancy after said date but before the termination of subsidy for the development. The assistance provided by this section shall be in addition to and not in place of any other rights or benefits that such tenant may have under sections 1 to 7, inclusive, of this act or under any federal or other state law.

Sec. 5. (NEW) (*Effective July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006*) A violation of any provision of sections 1 to 7, inclusive, of this act shall be deemed an unfair or deceptive trade practice under chapter 735a of the general statutes. In the case of any such violation, the tenant association, one or more tenants of the development, or an entity with a right to be notified under subsection (a) of section 2 of this act or the right to purchase under subsection (b) of section 3 of this act may bring an action for relief under said chapter 735a, including, but not limited to, injunctive relief and damages. The rights under this section shall be in addition to and not in place of any other rights or remedies available to such persons or entities under any other provision of law.



243       Sec. 6. (NEW) (*Effective July 1, 2005, and applicable to any termination of*  
244 *subsidy for the development occurring on or after July 1, 2006*) (a) It is the  
245 intent of the General Assembly that the provisions of sections 1 to 7,  
246 inclusive, of this act are in addition to, but not preemptive of,  
247 applicable federal laws governing the sale or other disposition of a  
248 development that would result in either (1) a discontinuance of its use  
249 as an assisted housing development, or (2) the termination of any low  
250 or moderate income use restrictions which apply to the development.

251       (b) The Connecticut Housing Finance Authority, in consultation  
252 with the Department of Economic and Community Development, may  
253 adopt such rules, policies, standards and procedures as may be  
254 necessary or appropriate to carry out the purposes of sections 1 to 7,  
255 inclusive, of this act.

256       Sec. 7. (NEW) (*Effective July 1, 2005, and applicable to any termination of*  
257 *subsidy for the development occurring on or after July 1, 2006*) The  
258 provisions of sections 1 to 7, inclusive, of this act shall not apply to an  
259 affordability preservation transaction undertaken by the owner in  
260 connection with the refinancing of such a development's governmental  
261 program mortgage, or undertaken by a buyer in connection with the  
262 sale, transfer or other disposition of such a development by contract or  
263 agreement with a proposed new mortgage lender or equity investor, or  
264 with the United States Department of Housing and Urban  
265 Development, the Connecticut Housing Finance Authority, the  
266 Department of Economic and Community Development or any other  
267 governmental agency or body, provided the contract or agreement  
268 requires the owner or buyer and owner's or buyer's respective  
269 successors and assigns to comply with all of the following affordability  
270 preservation criteria contained in a regulatory agreement that has been  
271 recorded against the property:

272       (1) To maintain the development as low and moderate income  
273 housing on terms at least as advantageous to existing and future  
274 tenants as the terms required by the affected development's  
275 governmental program in effect before the date of notice required by

276 subsection (a) of section 2 of this act for a period of time at least as long  
 277 as what the remaining term of the governmental program would have  
 278 been but for the termination of subsidy or for a period of time not less  
 279 than twenty years after the date of the termination of subsidy,  
 280 whichever is greater;

281 (2) To maintain at least as many dwelling units as low and moderate  
 282 income housing as were required to be affordable to such households  
 283 under the governmental program in effect prior to the termination of  
 284 subsidy for a period of time not less than twenty years after the date of  
 285 the termination of subsidy; and

286 (3) To maintain as rental subsidy program units such number of  
 287 units as were required to be subsidy program units under the contract  
 288 for the rental subsidy program in effect prior to the termination of  
 289 subsidy for a period of time not less than twenty years after the date of  
 290 the termination of subsidy, subject to the existence of a rental subsidy  
 291 program.

292 Sec. 8. Section 8-68c of the general statutes is repealed. (*Effective July*  
 293 *1, 2005, and applicable to any termination of subsidy for the development*  
 294 *occurring on or after July 1, 2006*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	New section
Sec. 2	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	New section

Sec. 3	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	New section
Sec. 4	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	New section
Sec. 5	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	New section
Sec. 6	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	New section
Sec. 7	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	New section
Sec. 8	<i>July 1, 2005, and applicable to any termination of subsidy for the development occurring on or after July 1, 2006</i>	Repealer section

**HSG**      *Joint Favorable Subst. C/R*

**PD**

**PD**      *Joint Favorable*